

**Notice of Allowability**

Application No.

10/683,946

Applicant(s)

NIKODEM, GERARD P.

Examiner

Art Unit

Dana Ross

3722

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTO-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed 3/22/07.
2.  The allowed claim(s) is/are 1-4,6-9 and 11-24.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some\*    c)  None    of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.  
(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
    1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.  
(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
    Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
    Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
    of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
    Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

***Allowable Subject Matter***

1. Claims 1-4, 6-9 and 11-24 are allowed.

The following is an examiner's statement of reasons for allowance: The prior art neither anticipates nor renders obvious the claimed invention of independent claims 1, 7, 8, 12, 15 or 20.

Regarding claims 1 and 15, Applicant's arguments were persuasive and the amendment to the claim overcomes the prior art.

The closest prior art is US Pat. 5,716,688 (Burke) in view of US Pat. No. 2,363,472 (Ritter) as is discussed in detail in the previous office actions.

Neither Burke nor Ritter disclose the claimed combination of limitations, specifically the "unperforated body" as is claimed in independent claim 1 and 15.

Furthermore, there is no motivation found to modify the prior art to obtain the claimed invention, and furthermore to modify the prior art to include the "unperforated body" would require hindsight and additionally destroy the workability of both Burke and Ritter, which teach the perforation.

Regarding claim 7, Applicant's arguments were persuasive and the amendment to the claim overcomes the prior art.

The closest prior art is Burke in view of Ritter, as is discussed in detail in the previous office actions.

Neither Burke nor Ritter disclose "at least a section of one of said first portion and said second portion is substantially transparent".

Furthermore, there is no motivation found to modify the prior art to obtain the claimed invention, and furthermore, to modify the prior art to include "at least a section of one of said

first portion and said second portion is substantially transparent" would require hindsight and destroy the workability of both Burke and Ritter.

Regarding claim 12, Applicant's arguments were persuasive and the amendment to the claim overcomes the prior art.

The closest prior art is Burke in view of Ritter, as is discussed in detail in the previous office actions.

Neither Burke nor Ritter disclose the tag first and second portions each comprise and outer surface and an opposite inner surface "each having a substantially uniform thickness".

Furthermore, there is no motivation found to modify the prior art to obtain the claimed invention, and furthermore, to modify the prior art to include the tag first and second portions each comprise and outer surface and an opposite inner surface "each having a substantially uniform thickness" would require hindsight and destroy the workability of both Burke and Ritter.

Regarding claims 8 and 20, Applicant's arguments were persuasive and the amendment to the claim overcomes the prior art.

The closest prior art is Burke, and Burke in view of Ritter, as is discussed in detail in the previous office actions.

Ritter teaches the tab formed removably from the first and second portions, not with the second portion comprising the tab "formed unitarily therewith such that said tab is removable from said first portion only when said second portion is removed from said first portion".

Neither Burke nor Ritter disclose the combination of limitations, specifically wherein there is a tab as claimed, specifically "formed unitarily therewith such that said tab is removable from said first portion only when said second portion is removed from said first portion".

Furthermore, there is no motivation found to modify the prior art to obtain the claimed invention, and furthermore to modify the prior art to include the “formed unitarily therewith such that said tab is removable from said first portion only when said second portion is removed from said first portion” would require hindsight and destroy the workability of both Burke and Ritter.

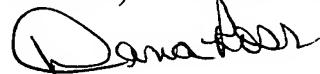
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

*Conclusion*

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Ross whose telephone number is 571-272-4480. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dana Ross  
Examiner  
Art Unit 3722

  
dmr